

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION



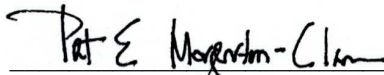
In re:) Case No. 08-15679
)
BROOKS M. JONES, JR.,) Chapter 7
)
Debtor.) Judge Pat E. Morgenstern-Clarren
)
) **ORDER**
) **(Property located at 2388 Ashurst Road,**
) **University Heights, Ohio)**

Wells Fargo Bank, N.A. as Trustee for National City Mortgage Loan Trust 2005-1, Mortgage-Backed Certificates, Series 2005-1 (Wells Fargo) filed a motion for relief from stay alleging that it is entitled to enforce a note given by non-debtor Milica Jones to First Franklin Financial Corporation, which note is secured by a mortgage given by Milica Jones and the debtor on real estate located at 2388 Ashurst Road, University Heights, Ohio. Wells Fargo alleges that the note is in default and seeks relief from stay to pursue its state court remedies. (Docket 13).

The basis for the relief requested is that the debtor has failed to adequately protect Wells Fargo by failing to make periodic payments under the note. However, the debtor did not sign the note; only Milica Jones is obligated under the note to make payments to Wells Fargo. Because the debtor did not sign the note, she is not obligated to make payments to Wells Fargo, and therefore, the debtor's failure to make periodic payments does not entitle Wells Fargo to relief from stay under § 362(d).

The court finds that the motion does not state a prima facie case for relief from stay and it is, therefore, denied without prejudice.

IT IS SO ORDERED.



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

Bankruptcy Noticing Center
2525 Network Place, 3rd Floor
Herndon, Virginia 20171-3514

CERTIFICATE OF SERVICE

District/off: 0647-1
Case: 08-15679

User: kbran
Form ID: pdf853

Page 1 of 1
Total Served: 2

Date Rcvd: Sep 24, 2008

The following entities were served by first class mail on Sep 26, 2008.
db +Brooks M. Jones, Jr., 2299 Grandview Ave. Apt. #4, Cleveland Hts., OH 44106-3168

The following entities were served by electronic transmission on Sep 25, 2008.
cr +E-mail/PDF: rmscedi@recoverycorp.com Sep 25 2008 00:52:33
Recovery Management Systems Corporation, 25 S.E. 2nd Avenue, Suite 1120,
Miami, FL 33131-1605

TOTAL: 1

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****
cr Park View Federal Savings Bank
cr WELLS FARGO BANK

TOTALS: 2, * 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have served the attached document on the above listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 26, 2008

Signature:

